

Patent Attorneys

S T I E N N O N & S T I E N N O N

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Fax to: **Examiner Nathan H. Empie**
United States Patent Office

At Fax Number: **571-270-2886**

From: **Patrick J. G. Stiennon**

Date: **March 4, 2010**

Time: _____

Our Reference: **LEITZI-2**

Your Reference: **10/598,181**
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The examiner's argument for lack of patentability is summarized in the Office action:

Taking the teaching of the references as a whole: there exists the desirability of monitoring and controlling layer thickness profile, the desirability to determine and control thicknesses of each layer of a multilayer stack, and the teaching to a thickness sensor capable of collecting thickness data from points along and across the entirety of a flow plane; as such, a combination of such references would *support measuring the cross machine direction profile of any or all layers as well as the desire to control such thicknesses.* [Emphasis added.] (AF Office Action, p. 16, line 21 to p. 17, line 3.)

The error in the examiner's reasoning is that it could be entirely correct and yet not make out a *prima facie* case of obviousness, because the references do not show or suggest any means for bringing about the applicants claimed "regulating thereby each layer cross-profile and thickness". In particular under MPEP 2143A(2) the examiner's rationale lacks an explanation of how the claim elements could be combined by known methods, wherein the prior art elements are such that they can not be combined. The co-pending U.S. App. No. 10/571,224, has been allowed with claims to the two structures (see FIGS. 2 and 4 present application) which show how the claim elements could be combined. There being no similar structures in the prior art, the person of ordinary skill in the art is missing a known method of combining elements to render the claims obvious.

Case law, see *In re Kuehl CCPA 1973*, supports the granting of claims to a process even where the point of novelty appears to the examiner to reside in other statutory classes i.e. we should be able to obtain claims to the method of using the structures of the allowed claims of 10/571,224. Currently the claims are not limited to only the structures contained in 10/571,224 but because the prior art does not contain other suitable structures applicant is entitled to the broader method claims.

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Table summarizing the bases of the examiner's rejection using quotes from the After Final Office action

Claims 19, 21, 22	Claim 20	Claim 23	Claims 11,14-5, 17-8
Nakamura	Nakamura	Nakamura	Nakamura
Arai	Arai	Arai	Arai
Chino	Chino	Chino	Chino
Kondo	Kondo	Kondo	Okada
	Kustermann	Yapel	Kondo.
1 Nakamura	has taught a sensor capable of determining the thickness of underlying layers that can be moved across and along the entirety of the flow plane		
2 Arai	has taught manipulating an element (19) along a cross machine direction whereby the effective area of the flow path of the fed coating is altered to achieve a selected cross machine direction thickness profile for at least one coating material. Examiner agrees with the applicant that Arai does teach cross machine direction measuring and profiling		
3 Chino	has taught that it is desirable to monitor and determine the coating thickness of each layer within a multilayer coating, and wherein thicknesses of distinct layers within multicomponent coatings can be determined by subtraction		
4 Kondo	demonstrating that similar coating dies as those taught by Nakamura are well known in the art to apply multilayer coatings via a falling curtain.		
5 Kustermann	the examiner asserts that the coating die of Nakamura is basically a grouping of separated coating dies with separate feeds and nozzles sharing a flow plane, as such the examiner asserts that one of ordinary skill in the art would appreciate that the benefits taught by Okada and Kustermann to die feed supply systems would be achieved by incorporating such controlling means to each and every separate feed supply making up the multilayer coating die of Nakamura		
6 Yapel	teaches that it is well known in the art to collect thickness profiles (depth profiles), and further teaches wherein both devices as well as analytical or numerical methods, such as using fluid flow modeling such as FIDAP or NEKTON, are well known in the art and predictable methods of obtaining thickness profiles		
7 Okada	has taught enhancing the regulation of applied coated area by incorporating a plurality of cross machine direction feed holes (80) which communicate between a feed chamber (76) and a nozzle slot (74) and wherein the flow through the plurality of feed holes is manipulated by an element (82) disposed in each of the plurality of feed holes		
8 Kondo	teaches that it is well known in the art for coating dies comprising a plurality of feed slots to flow a plurality of coating layers down a nozzle beam to form a coating curtain that is tricked from the die feed lip onto a the surface of a web		

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